

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

PABLO JESUS MARTELL-QUINOÑES,
Defendant.

Criminal No. 22-153 (ADC)

REPORT AND RECOMMENDATION
ON RULE 11(c)(1)(B) CHANGE OF PLEA HEARING

I. Procedural Background

On April 11, 2022, Defendant Pablo Jesús Martell Quiñones was charged by a Grand Jury in a three-count indictment. Defendant agrees to plead guilty to Counts Two and Three of the Indictment.

Count Two of the Indictment charges that, from on or about October 23, 2019, to on or about October 25, 2019, in the District of Puerto Rico and within the jurisdiction of this Court, Pablo Jesús Martell-Quíñones, did knowingly attempt to receive visual depictions of a minor engaging in sexually explicit conduct, such visual depiction having been shipped and transported using a means and facility of interstate and foreign commerce, and in or affecting interstate and foreign commerce, and having been produced using materials which had been mailed and so shipped and transported, by any means, including by computer, that is: the defendant, using his cellular phone which had internet capabilities, attempted to receive images depicting a male minor engaged in sexually explicit conduct. All in violation of Title 18, United States Code, Section 2252(a)(2) and (b)(1).

USA v. Pablo Jesús Martell-Quiñones
Criminal No. 22-153 (ADC)
Report and Recommendation on Guilty Plea

States, 394 U. S. 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the guilty plea.

A. Competence to Enter a Guilty Plea

The Court questioned Defendant about his age, education, employment, history of any treatment for mental illness or addiction, use of any medication, drugs or alcohol, and his understanding of the purpose of the hearing, to ascertain his capacity to understand, answer and comprehend the change of plea colloquy. The Court confirmed that Defendant received the Indictment and fully discussed the charges with his attorney, and that he was satisfied with the advice and representation he received. The Court further inquired whether Defendant's counsel or counsel for the Government had any reservations as to Defendant's competency to plead, receiving answers that Defendant was competent to enter a plea. After considering Defendant's responses, and observing his demeanor, the Court found that Defendant was competent to plead and fully aware of the purpose of the hearing.

B. Plea Agreement

Defendant was shown his plea agreement, including the stipulation of facts, and he identified his initials and signatures. Defendant confirmed that he had the opportunity to read and discuss the plea agreement and plea agreement supplement with his attorney, that his attorney explained both the plea agreement and the plea agreement supplement before he signed the documents, that the plea agreement represented the entirety of his understanding with the Government, that he understood the terms of the plea agreement and plea agreement supplement, and that no one had made any other or different promises or assurances to induce him to plead guilty. Counsel for the Government described the essential terms of the plea agreement, including stipulations pertaining to the Sentencing Guidelines and any sentencing recommendations. Counsel for the defense agreed with the Government's description of the terms and recommendations, and so did Defendant.

Defendant was then admonished, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), that the terms of the plea agreement are mere recommendations to the Court, and that the District Judge who will preside over the sentencing hearing can reject the recommendations without permitting him to withdraw his guilty plea. And that the District Judge could impose a

